

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN MARVIN OLD CHIEF,

Defendant.

CR 16-48-GF-BMM-JTJ

**FINDINGS AND
RECOMMENDATIONS**

I. Synopsis

Defendant John Marvin Old Chief (Old Chief) has been accused of violating the conditions of his supervised release. Old Chief admitted the alleged violation. Old Chief's supervised release should be revoked. Old Chief should be placed in custody for 6 months, with 28 months of supervised release to follow.

II. Status

Old Chief pleaded guilty to Conspiracy to Commit Arson of a Dwelling on September 27, 2016. (Doc. 42). The Court sentenced Old Chief to 52 months of custody, followed by 3 years of supervised release. (Doc. 51). Old Chief's current term of supervised release began on February 26, 2021. (Doc. 70 at 1).

Petition

The United States Probation Office filed a Petition on March 9, 2021, requesting that the Court revoke Old Chief's supervised release. (Doc. 70). The Petition alleged that Old Chief had violated the conditions of his supervised release by failing to report for substance abuse treatment.

Initial appearance

Old Chief appeared before the undersigned for his initial appearance on July 21, 2021. Old Chief was represented by counsel. Old Chief stated that he had read the petition and that he understood the allegations. Old Chief waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

The Court conducted a joint revocation hearing in this case and in Cause CR 16-38-GF-BMM-JTJ on July 21, 2021. Old Chief admitted that he had violated the conditions of his supervised release by failing to report for substance abuse treatment. The violation is serious and warrants revocation of Old Chief's supervised release.

Old Chief's violation is a Grade C violation. Old Chief's criminal history category is I. Old Chief's underlying offense is a Class A felony. Old Chief could

be incarcerated for up to 60 months. Old Chief could be ordered to remain on supervised release for up to 34 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 3 to 9 months.

III. Analysis

Old Chief's supervised release should be revoked. Old Chief should be incarcerated for 6 months, with 28 months of supervised release to follow. This sentence is sufficient but not greater than necessary.

IV. Conclusion

The Court informed Old Chief that the above sentence would be recommended to United States District Judge Brian Morris. The Court also informed Old Chief of his right to object to these Findings and Recommendations within 14 days of their issuance. The Court explained to Old Chief that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose.

The Court **FINDS:**

That John Marvin Old Chief violated the conditions of his supervised release by failing to report for substance abuse treatment.

The Court **RECOMMENDS:**

That the District Court revoke Old Chief's supervised release and commit Old Chief to the custody of the United States Bureau of

Prisons for 6 months, with 28 months of supervised release to follow. This sentence should run concurrent with the sentence imposed in CR 16-38-GF-BMM-JTJ.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A United States district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge, and may waive the right to appear and allocute before a district court judge.

DATED this 22nd day of July, 2021.



John Johnston
United States Magistrate Judge